

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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No. 17-3

UNITED STATES OF AMERICA,

Plaintiff-Appellee

v.

DYLANN STORM ROOF,

Defendant-Appellant

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ON APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

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UNOPPOSED MOTION OF THE UNITED STATES FOR AN EXTENSION OF  
TIME IN WHICH TO FILE ITS RESPONSE BRIEF

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Pursuant to Federal Rule of Appellate Procedure 26(b) and Local Rule 31(c), the United States respectfully moves for a six-month extension of time, until August 18, 2020, in which to file its response brief in this appeal. This is the government's first extension request in this case. In support of this motion, the United States respectfully submits the following:

1. Defendant-appellant Dylann Storm Roof was tried and convicted of capital murder and sentenced to death. This is a direct appeal from the judgment.

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2. On January 23, 2017, the district court entered judgment and, on May 10, 2017, it denied the defendant's motion for a new trial or a judgment of acquittal. Roof filed a timely notice of appeal on May 23, 2017, and on that same date, this Court appointed the defendant's current counsel to represent him on appeal.

3. The defendant, through counsel, has obtained multiple extensions of time, totaling more than two years, in which to file his opening brief and the joint appendix.

a. On October 16, 2017, this Court issued its first briefing order, setting November 20, 2017, as the due date for Roof's opening brief and the joint appendix.

b. On November 17, 2017, after the defendant moved for a suspension of the briefing schedule, this Court extended the briefing schedule for 90 days, setting a deadline of February 20, 2018, for Roof to file his opening brief and the joint appendix.

c. On February 20, 2018, the Court, upon the defendant's request, suspended the briefing schedule for 90 days.

d. On May 21, 2018, Roof moved the Court to issue a new briefing order setting a nine-month deadline for the filing of his opening brief and the joint appendix. On May 23, 2018, the Court issued a revised briefing order, setting

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February 21, 2019, as the defendant's deadline for filing his opening brief and the joint appendix.

e. On February 15, 2019, the Court granted another extension request by the defendant and extended the deadline for his opening brief and joint appendix to June 21, 2019.

f. On June 10, 2019, the Court granted a further extension request and extended Roof's deadline for filing his opening brief and the joint appendix to October 21, 2019.

g. On October 16, 2019, the Court granted Roof's request for an additional extension, setting the filing deadline for his opening brief and the joint appendix as January 21, 2020.

h. On January 17, 2020, the Court grant defendant's request for a one-week extension of time following the Court's order granting the defendant leave to file an enlarged brief that was shorter than he had requested. The Court set January 28, 2020 as the revised deadline for filing the opening brief and the joint appendix.

i. Roof filed his opening brief and the joint appendix on January 28, 2020. The government's response brief is due February 18, 2020.

4. The United States did not oppose the defendant's multiple extension requests or his request to file an oversized brief. This is an appeal in a capital case,

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and the defendant and this Court are entitled to a careful, comprehensive brief analyzing the issues presented on appeal. The United States and this Court deserve the same from the government's response brief.

5. The defendant's opening brief is 278 pages in length. The brief sets out 20 discrete issues for review, divided among four major topics: (a) points related to competency to stand trial, (b) points related to self-representation, (c) points related to the death verdict, and (d) points related to the guilt verdict. The defendant raises three questions relating to competency, eight questions relating to self-representation, four questions relating to the death verdict, and five questions relating to the guilt verdict. See Appellant Br. 3-7.

6. Many of the issues raised in the defendant's opening brief are factually or legally complex and will necessitate additional legal research and analysis, and a close review of what is an enormous record. The joint appendix, including the volumes filed under seal, exceeds 8100 pages.

7. The government's response brief will be prepared principally by appellate attorneys in the Civil Rights Division and the Criminal Division in the Department of Justice. None of these attorneys had any involvement in the district court proceedings.

8. Preparing the brief will require extensive consultation and coordination among the appellate attorneys and the prosecutors who tried the case. The

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government must also allow sufficient time for the layers of review and approval within the Department of Justice.

9. Given the nature of the case and the sentence imposed; the number, seriousness, and complexity of the issues raised by the defendant; the voluminous record in this case; and the many unopposed extensions of time that the Court granted Roof (totaling more than two years), the government respectfully submits that an extension of six months is both necessary and reasonable for it to provide a complete and thorough response to the defendant's opening brief. Accordingly, the government respectfully proposes to file its response brief on August 18, 2020.

10. We have informed the defendant, through counsel, Sapna Mirchandani, of our intent to file this motion. Ms. Mirchandani advises that the defendant does not oppose the motion but requests that the Court allow at least a three-month interval between the filing of the government's response brief and oral argument, to permit sufficient time for the defendant to file a reply brief. The United States agrees with that request and suggests that the Court wait to set the argument date until briefing is complete.

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## CONCLUSION

For the foregoing reasons, the United States respectfully requests that the Court extend the deadline for the filing of the government's response brief to August 18, 2020.

Respectfully submitted,

BRIAN A. BENCZKOWSKI  
Assistant Attorney General

ERIC S. DREIBAND  
Assistant Attorney General

JOHN P. CRONAN  
Principal Deputy Assistant  
Attorney General

ALEXANDER V. MAUGERI  
Deputy Assistant Attorney General

JOHN M. PELLETTIERI  
Attorney, Appellate Section  
Criminal Division  
U.S. Department of Justice  
950 Pennsylvania Ave., NW, Rm. 1258  
Washington, D.C. 20530  
(202) 307-3766  
John.Pellettieri@usdoj.gov

s/ Bonnie I. Robin-Vergeer  
THOMAS E. CHANDLER  
BONNIE I. ROBIN-VERGEER  
Attorneys  
Department of Justice  
Civil Rights Division  
Appellate Section  
Ben Franklin Station  
P.O. Box 14403  
Washington, D.C. 20044-4403  
(202) 353-2464  
Bonnie.Robin-Vergeer@usdoj.gov

## CERTIFICATE OF COMPLIANCE

I certify that this motion:

(1) complies with the type-volume limitations of Federal Rule of Appellate Procedure 27(d)(2)(A) because it contains 950 words; and

(2) complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type style requirements of Federal Rule of Appellate Procedure 32(a)(6), because it has been prepared in a proportionally spaced typeface using Microsoft Word 2016, in 14-point Times New Roman font.

s/ Bonnie I. Robin-Vergeer  
BONNIE I. ROBIN-VERGEER  
Attorney

Date: February 10, 2020